

REMARKS

Claims 1, 3, 9-13, 15, 21-25, 28-30, 32-35 and 37-44 were pending in the subject application. Applicant has hereinabove canceled claims 13, 15, 21-24; added new claim 45; and amended claims 1, 3, 9-12, 25, 30 and 35. Accordingly, upon entry of this Amendment claims 1, 3, 9-12, 25, 28-30, 33-35 and 37-45 will be pending and under examination.

Applicant maintains that the amendments to claims 1, 3, 9-12, 25, 30 and 35; and new claim 45 do not raise any issue of new matter, and that these claims are supported by the specification as originally filed.

Rejection Under 35 U.S.C. §112, First Paragraph, Enablement

In the December 29, 2006 Office Action, the Examiner rejected claims 1, 3, 9-13, 15, 21-25, 28-30, 32-35 and 37-44 under 35 U.S.C. §112, first paragraph, enablement, as allegedly containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains to make and/or use the invention. The Examiner alleged that applicant's claim that the user engageable member is immovable by a muscular force seems to correlate to the embodiment of Figure 2, as the embodiment of Figure 1 is connected to a chain which would allegedly allow some degree of movement by muscular force. The Examiner also alleged that applicant's claim for a means for removably connecting the first and second end of the user engageable member seems to correlate to the

embodiment of Figure 1. The Examiner alleged that the features of the embodiments have been combined into an invention not disclosed in the specification.

In response to the Examiner's rejection, applicant respectfully traverses on the ground that the specification describes in the claimed subject matter in such a way as to enable one skilled in the art to which it pertains to make and/or use the claimed invention.

As noted under MPEP 2164.01, the test for enablement is whether one skilled in the art could make or use the invention from the disclosures in the patent coupled with information known in the art without undue experimentation. Furthermore, under MPEP 2164.01(b), the enablement requirement is satisfied as long as the specification discloses at least one method for making and using the claimed invention that bears a reasonable correlation to the entire scope of the claim.

Applicant has amended claim 1 to claim the embodiment disclosed in Figure 2 of the subject application. One skilled in the art can make or use the invention disclosed in amended claim 1 without undue experimentation.

Briefly, amended claim 1 recites an isometric exercising apparatus comprising a support structure having no source of motive energy; a user engageable member including a first end, an intermediate section and a second end; at least one support attached at a first end to said user engageable member at a perpendicular angle; wherein a

second end of said support is slidably connected to said support structure to allow said user to slidably move said support and said user engageable member to a user desired position; further wherein said connected support to said support structure renders said user engageable member substantially immovable by a muscular force applied by said user; wherein said user desired position is a position that allows said user to apply the strongest range of muscular force for a muscle group to said user engageable member; a means for distributing the strongest range of muscular force applied by said user to said user engageable member to said support structure; a means for measuring the strongest range of muscular force applied by said user on said user engageable member; and a means for displaying the strongest range of muscular force applied by said user on said user engageable member.

Amended claim 1 recites an apparatus in which the user engageable member is attached to at least one support at a perpendicular angle, wherein this support is slidably connected to the support structure to allow said user to slidably position the support to move the user engageable member to a desired location.

Furthermore, applicant has added new claim 45 to claim the embodiment disclosed in Figure 1 of the subject application. One skilled in the art can make or use the invention disclosed in new claim 45 without undue experimentation.

Briefly, the pending claim 45 recites an isometric exercising apparatus comprising a support structure possessing no source of motive energy; a user engageable member including a first end, an intermediate section and a second end; a means for slidably connecting said first end of said user engageable member to said support structure at a user desired position wherein said user engageable member is connected to a first chain connected to said support structure wherein said means allows a user to connect and disconnect said first end of said user engageable member at said user desired position from said first chain; a means for slidably connecting said second end of said user engageable member to said support structure at said user desired position wherein said user engageable member is connected to a second chain connected to said support structure wherein said means allows said user to connect and disconnect said second end of said user engageable member at said user desired position from said second chain; further wherein said first chain and said second chain are connected to said support structure so as to allow the force of each said chain to offset said other chain to render said user engageable member substantially immovable by a muscular force applied by said user; wherein said user desired position is a position that allows said user to apply the strongest range of muscular force for a muscle group to said user engageable member; a means for distributing the strongest range of muscular force applied by said user to said user engageable member to said support structure; a means for measuring the strongest range of muscular force applied by said user on said user engageable member; and a means for displaying the strongest range of

muscular force applied by said user on said user engageable member.

New claim 45 claims an apparatus in which both ends of a user engageable member are slidably connected to chains at a user desired position wherein these chains are connected to said support structure so as to allow the force of each said chain to offset said other chain to render said user engageable member substantially immovable by a muscular force applied by said user. Those skilled in the art can practice the claimed invention as the user engageable member can only be moved to the degree that opposing chains can be moved by muscular force.

In response to the Examiner's rejection of claims 3, 9-12, 25, 28-30, 33-35 and 37-44, applicant notes that these claims incorporate all the limitations of enabled claim 1 or 45. Under MPEP 2164.08, a claim in a dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers. Accordingly, claims 3, 9-12, 25, 28-30, 33-35 and 37-44 all contain the enabled subject matter of claim 1 or 45.

Accordingly, for the reasons set out above, the pending claims satisfy the requirements of 35 U.S.C. 112, first paragraph, enablement.

In view of the applicant's amendments to the claims, applicant respectfully requests the Examiner to remove this ground of rejection.

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Reconsideration and further examination is respectfully requested.

The Commissioner is hereby authorized to charge any fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 12-0115.

In the event that an extension of time is required to file this response, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 12-0115.

Applicant has made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Daniel N. Smith, Applicant's Attorney at (617) 720-0091 so that such issues may be resolved as expeditiously as possible.

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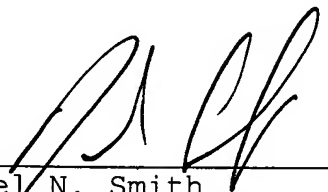
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For these reasons, and in view of the above amendments, this application is now considered to be in condition for allowance and such action is earnestly solicited.

Respectfully Submitted,

3/7/07

Date


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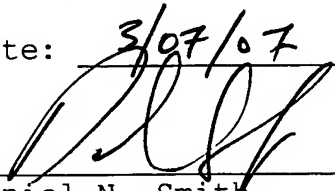
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CERTIFICATE OF MAILING

I hereby certify that this Amendment is being deposited with the United States Postal Service in an envelope addressed to the Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 with sufficient first class postage thereon on the date shown below.

Date: 3/07/07


Daniel N. Smith